

1455

0701-08 IFW SAC

01PE 1497  
JUN 30 2008  
PATENT & TRADEMARK OFFICE

**IN THE UNITED STATES PATENT  
AND TRADEMARK OFFICE**

Patent No. : 7,384,446

Issue Date : June 10, 2008

Serial No. : 10/560,080

Applicants : Shigeru UNAMI et al.

Filed : December 8, 2005

For : MIXED POWDER FOR POWDER  
METALLURGY

Art Unit : 1793

Examiner : Ngoclan Thi MAI

Docket No. : 05850/HG

Customer No.: 01933

Confirm. No.: 1084

Express Mail Mailing Label  
No.: EM 161 442 662 US  
Date of Deposit: June 30, 2008  
I hereby certify that this paper is  
being deposited with the United States  
Postal Service "Express Mail Post  
Office to Addressee" service under  
37 CFR 1.10 with sufficient postage  
on the date indicated above and is  
addressed to:  
MAIL STOP PETITION  
Commissioner for Patents,  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dorothy DeFrancesco  
Dorothy DeFrancesco

In the event that this Paper is late  
filed, and the necessary petition  
for extension of time is not filed  
concurrently herewith, please consider  
this as a Petition for the requisite  
extension of time, and to the extent  
not tendered by check attached hereto,  
authorization to charge the extension  
fee, or any other fee required in  
connection with this Paper to  
Account No. 06-1378.

**APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING  
REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT  
INDICATED IN AN ISSUED PATENT (37 CFR §1.705(d))**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**MAIL STOP PETITION**

S I R :

1. This is a request for reconsideration of the patent term  
adjustment of 71 days indicated in the Issue Notification for the  
above-identified issued patent. It is respectfully requested  
that applicants be afforded a patent term adjustment of 190 days.

07/02/2008 HNGUYEN2 00000054 7384446

01-FC:1455

200.00 OP

2. This application for patent term adjustment is being filed within two months of the issue date (37 CFR §1.705(d)).

3. Applicants submit herewith a "Statement of the Correct Patent Term Adjustment: Basis Under 37 CFR §1.702 For the Adjustment (37 CFR §1.705(b)(2)(i) and (ii))."

4. The above-identified patent is not subject to a terminal disclaimer (37 CFR §1.705(b)(2)(iii)).

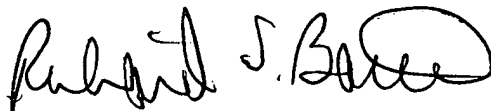
5. As to any circumstances during the prosecution of this patent constituting a failure to engage in reasonable efforts to conclude processing or examination of the above-identified patent as set forth in §1.704 (37 CFR §1.705(b)(2)(iv)): there was none (37 CFR §1.705(b)(2)(iv)(B)).

6. The fee set forth in §1.18(e) (\$200), required by 37 CFR §1.705(b)(1), is paid as follows:  
Attached is a Form PTO-2038 in the amount of \$200.

To the extent not tendered by Form PTO-2038 attached hereto,  
authorization is given to charge any additional fees to Deposit  
Account No. 06-1378.

It is respectfully requested that this application for  
patent term adjustment be granted and that a Certificate of  
Correction be issued to indicate a patent term adjustment of  
190 days.

Respectfully submitted,



RICHARD S. BARTH  
REG. NO. 28,180

FRISHAUF, HOLTZ, GOODMAN & CHICK, P.C.  
220 FIFTH AVENUE, 16th FLOOR  
NEW YORK, NEW YORK 10001-7708  
Tel. Nos. (212) 319-4900  
(212) 319-4551/Ext. 219  
Fax No. (212) 319-5101  
E-Mail Address: BARTH@FHGC-LAW.COM  
RSB/ddf

Encs.: (1) Statement of the Correct Patent Term Adjustment:  
Basis Under 37 CFR §1.702 For the Adjustment (37 CFR  
§1.705(b)(2)(i) and (ii))


(2) Form PTO-2038



**IN THE UNITED STATES PATENT  
AND TRADEMARK OFFICE**

Patent No. : 7,384,446  
Issue Date : June 10, 2008  
Serial No. : 10/560,080  
Applicants : Shigeru UNAMI et al.  
Filed : December 8, 2005  
For : MIXED POWDER FOR POWDER  
METALLURGY  
Art Unit : 1793  
Examiner : Ngoclan Thi MAI  
Docket No. : 05850/HG  
Customer No.: 01933  
Confirm. No.: 1084

Express Mail Mailing Label  
No.: EM 161 442 662 US  
Date of Deposit: June 30, 2008  
I hereby certify that this paper is  
being deposited with the United States  
Postal Service "Express Mail Post  
Office to Addressee" service under  
37 CFR 1.10 with sufficient postage  
on the date indicated above and is  
addressed to:  
MAIL STOP PETITION  
Commissioner for Patents.  
P.O. Box 1450  
Alexandria, VA 22313-1450

  
Dorothy DeFrancesco

In the event that this Paper is late  
filed, and the necessary petition  
for extension of time is not filed  
concurrently herewith, please consider  
this as a Petition for the requisite  
extension of time, and to the extent  
not tendered by check attached hereto,  
authorization to charge the extension  
fee, or any other fee required in  
connection with this Paper to  
Account No. 06-1378.

**STATEMENT OF THE CORRECT PATENT TERM ADJUSTMENT:  
BASIS UNDER 37 CFR §1.702 FOR THE ADJUSTMENT  
(37 CFR §1.705(b)(2)(i) AND (ii))**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**MAIL STOP PETITION**

S I R :

1. This statement is being submitted in support of the  
"APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR  
RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN AN ISSUED  
PATENT (37 CFR §1.705(d))" to which this statement is attached.

**37 CFR §1.705(b) (2) (i)**

2. The patent term adjustment indicated in the Issue Notification for the above-identified patent is 71 days. It is respectfully submitted that such indication of patent term adjustment is in error, due to the improper inclusion of a 119-day applicant delay with respect to the filing of a paper entitled COMMENTS ON NOTICE OF ALLOWANCE filed February 13, 2008.

It is respectfully submitted that the correct patent term adjustment under 37 CFR §1.702 is 190 days.

**37 CFR §1.705(b) (2) (ii)**

3. The basis on which applicants seek adjustment are as follows.

a. The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) that was attached to the February 7, 2008 Notice of Allowance and Fee(s) Due indicated a patent term adjustment of 190 days.

b. A paper entitled COMMENTS ON NOTICE OF ALLOWANCE was filed on February 13, 2008, wherein the following was stated:

"The Notice of Allowability attached to the February 7, 2008 Notice of Allowance indicated that claims 1 to 4 were allowed. However, the AMENDMENT

UNDER 37 CFR 1.111 filed October 17, 2007 included claims 1 to 9. Thus, the Notice of Allowability neglected to include claims 5 to 9 as allowed claims.

It is therefore respectfully requested that a Supplemental Notice of Allowability be issued to indicate that claims 1 to 9 were allowed."

The purpose of applicants' COMMENTS ON NOTICE OF ALLOWANCE was to correct a USPTO error.

c. In reply to applicants' COMMENTS ON NOTICE OF ALLOWANCE, the USPTO issued a paper entitled "Supplemental to Notice of Allowability" that was attached to a USPTO Communication mailed February 25, 2008. The Supplemental to Notice of Allowability indicated that the allowed claims were 1 to 9. This confirms that applicants were justified in requesting a correction to the listing of pending claims in the Notice of Allowability.

d. The Issue Notification indicated a patent term adjustment of 71 days. This represents a deduction of 119 days of patent term adjustment from the 190 days of patent term adjustment indicated in the aforesaid Determination of Patent Term Adjustment under 35 U.S.C. 154(b).

e. It is respectfully submitted that the aforesaid deduction of 119 days of patent term adjustment was a USPTO error. The filing of the aforesaid COMMENTS ON NOTICE OF ALLOWANCE should not have resulted in any loss of patent term adjustment.

f. Attached is a copy of the Patent Term Adjustment History from the USPTO website. The Patent Term Adjustment History shows a 119 applicants' delay beginning on October 4, 2007 for the entry "Case Docketed to Examiner in GAU" and ending on February 13, 2008 for the entry "Amendment after Notice of Allowance (Rule 312)". This is clearly an error, since an Amendment under 37 CFR 1.312 was not filed. Furthermore, the October 4, 2007 date does not correspond to any paper in the file history.

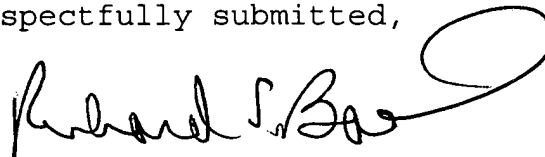
The Patent Term Adjustment History indicates an entry for February 25, 2008 for a "Response to Amendment under Rule 312." However, the USPTO Communication mailed on February 25, 2008 was said "Supplemental to Notice of Allowability."

The Patent Term Adjustment History indicates an entry of February 13, 2008 entitled "Response to Reasons for Allowance."

However, the USPTO did not issue any paper on February 13, 2008, and applicants did not file any paper entitled "Response to Reasons for Allowance."

It is thus respectfully submitted that the 119 day applicant delay indicated in the Patent Term Adjustment History is clearly erroneous. It is therefore respectfully requested that the 190 days of patent term adjustment indicated in the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be restored.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard S. Barth", with a large, stylized loop at the end.

---

RICHARD S. BARTH  
REG. NO. 28,180

FRISHAUF, HOLTZ, GOODMAN & CHICK, P.C.  
220 FIFTH AVENUE, 16th FLOOR  
NEW YORK, NEW YORK 10001-7708  
Tel. Nos. (212) 319-4900  
(212) 319-4551/Ext. 219  
Fax No. (212) 319-5101  
E-Mail Address: BARTH@FHGC-LAW.COM  
RSB/ddf



10/560,080 MIXED POWDER FOR POWDER METALLURGY

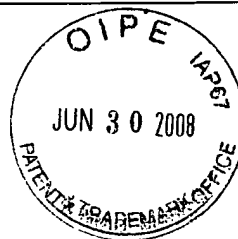
06-27-  
2008::15:20:44**Patent Term Adjustments**

Patent Term Adjustment (PTA) for Application Number: 10/560,080

Filing or 371(c) Date:	12-08-2005	USPTO Delay (PTO) Delay (days):	190
Issue Date of Patent:	06-10-2008	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL) Delay (days):	119
Post-Issue Petitions (days):	+0	Total PTA (days):	71
USPTO Adjustment(days):	+0	Explanation Of Calculations	

**Patent Term Adjustment History**

Date	Contents Description	PTO(Days)	APPL(Days)
06-10-2008	Patent Issue Date Used in PTA Calculation		
05-15-2008	Dispatch to FDC		
02-13-2008	Response to Reasons for Allowance		
05-06-2008	Application Is Considered Ready for Issue		
02-25-2008	Response to Amendment under Rule 312		
04-29-2008	Issue Fee Payment Verified		
04-29-2008	Issue Fee Payment Received		
02-13-2008	Amendment after Notice of Allowance (Rule 312)		119
02-25-2008	Mail Miscellaneous Communication to Applicant		✦
02-14-2008	Examiner Interview Summary Record (PTOL - 413)		✦
02-19-2008	Miscellaneous Communication to Applicant - No Action Count		✦
02-07-2008	Mail Notice of Allowance		✦
01-07-2008	Document Verification		✦
01-07-2008	Notice of Allowance Data Verification Completed		✦
01-07-2008	Case Docketed to Examiner in GAU		✦
10-25-2007	Date Forwarded to Examiner		✦
10-17-2007	Response after Non-Final Action		✦
10-04-2007	Case Docketed to Examiner in GAU		✦
08-17-2007	Mail Non-Final Rejection	190	
08-15-2007	Non-Final Rejection	✦	
07-10-2006	Information Disclosure Statement considered	✦	
03-09-2006	Information Disclosure Statement considered	✦	
12-08-2005	Information Disclosure Statement considered	✦	
08-03-2007	Case Docketed to Examiner in GAU	✦	
04-26-2007	PG-Pub Issue Notification	✦	
03-22-2007	IFW TSS Processing by Tech Center Complete	✦	
07-10-2006	Request for Foreign Priority (Priority Papers May Be Included)	✦	
07-10-2006	Information Disclosure Statement (IDS) Filed	✦	
07-10-2006	Information Disclosure Statement (IDS) Filed	✦	
	Request for Foreign Priority (Priority Papers May Be		



03-09-2006	Included)	✦
03-09-2006	Information Disclosure Statement (IDS) Filed	✦
03-09-2006	Information Disclosure Statement (IDS) Filed	✦
12-08-2005	Request for Foreign Priority (Priority Papers May Be Included)	✦
12-08-2005	Information Disclosure Statement (IDS) Filed	✦
12-08-2005	Information Disclosure Statement (IDS) Filed	✦
12-08-2005	Preliminary Amendment	✦
12-08-2005	371 Completion Date	✦
01-16-2007	Application Dispatched from OIPE	✦
01-04-2006	Cleared by OIPE CSR	✦
12-08-2005	Initial Exam Team nn	✦

---

**Close Window**